

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

In the Matter of the Marriage of)	
)	No. 63614-6
KRISTINE ELAINE NELSON,)	
)	DIVISION ONE
Respondent,)	
)	UNPUBLISHED OPINION
and)	
)	
JAMES J. NELSON)	
)	
Appellant.)	FILED: August 3, 2009
)	

Appelwick, J. — James Nelson appeals the court's child support order, which denied his request for a deviation from the standard support calculation based on spending a significant amount of time with his child. Because the trial court did not abuse its discretion in denying Nelson's request, we affirm.

FACTS

Following a dissolution trial, the trial court entered a decree of dissolution, findings of fact and conclusions of law, a final parenting plan, and a final order of child support. The parenting plan scheduled the child to spend the majority of the time with her mother, Kristine Nelson, but provided for substantial residential time with her father, James Nelson, five overnights out of 14.¹ The plan also divided vacation and holiday residential time equally between the parents.

¹ We refer to the Nelsons by their first names to avoid confusion.

Based on the total of the parents' income and each parent's proportional share of that income, the court ordered James to pay Kristine a \$562 per month transfer payment.

James appealed, arguing that the trial court erred by denying his request for a deviation from the standard calculation of the transfer payment.

DISCUSSION

Nelson argues that his residential time with the child is significant such that the trial court erred by denying his request for a deviation.

We review a trial court's child support order for abuse of discretion. In re Marriage of Fiorito, 112 Wn. App. 657, 663, 50 P.3d 298 (2002). A trial court abuses its discretion when it bases its decision on untenable grounds or the decision itself is manifestly unreasonable. Id. at 663-64.

RCW 26.19.075(1)(d) provides that "[t]he court may deviate from the standard calculation if the child spends a significant amount of time with the parent who is obligated to make a support transfer payment" if the deviation does not result in insufficient funds to meet the child's basic needs while residing in the household receiving the transfer payment.² When determining the amount

² RCW 26.19.075(1)(d) provides:

The court may deviate from the standard calculation if the child spends a significant amount of time with the parent who is obligated to make a support transfer payment. The court may not deviate on that basis if the deviation will result in insufficient funds in the household receiving the support to meet the basic needs of the child or if the child is receiving temporary assistance for needy families. When determining the amount of the deviation, the court shall consider evidence concerning the increased expenses to a parent making support transfer payments resulting from the significant amount of time spent with that parent and shall consider the decreased expenses, if any, to the party receiving the support resulting from the significant amount of time the child spends with the parent making the support transfer payment.

of deviation, the trial court should consider evidence of increased expenses to the obligated parent and decreased expenses, if any, to the parent receiving the payment. RCW 26.19.075(1)(d).

The statute plainly gives the trial court discretion to deviate from the basic child support obligation based on the amount of residential time the child spends with the obliged parent. State ex rel. M.M.G. v. Graham, 159 Wn.2d 623, 636, 152 P.3d 1005 (2007). “Because the statute explicitly gives the trial court discretion to deviate from the basic child support obligation based on the facts of a particular case, a specific formula is neither necessary nor statutorily required to ensure the parents’ child support obligation is properly allocated.” Id.

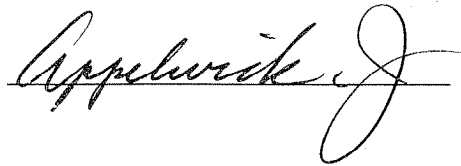
In this instance, the trial court was not persuaded to deviate from the schedule based on James’s financial declaration or his argument that the statutory scheme was unfair. James’s financial declaration is the only evidence before this court pertaining to his requested deviation, yet he has failed to argue why the information in the declaration demonstrates the need for a deviation. Absent from this record is any evidence suggesting the trial court’s decision was an abuse of discretion.

James also argues that the trial court should have entered findings and conclusions supporting its decision to deny the deviation. The statute requires the trial court to enter findings that “specify reasons for any deviation or any denial of a party’s request for any deviation from the standard calculation made by the court.” RCW 26.19.075(3).

The purpose of findings of fact is to facilitate appellate review. State v. Cannon, 130 Wn.2d 313, 329, 922 P.2d 1293 (1996). The sole basis for James's request was that the residential time with his daughter was significant and resulted in increased costs. The trial court's findings and order state that the "[c]ourt declines to deviate based on [the] father's parenting time with [the] child as requested by [the] father." The trial court necessarily rejected James's argument that his residential time was significant. No additional findings were necessary.

Kristine requests attorney fees and costs associated with the appeal. RCW 26.09.140 provides that "[u]pon any appeal, the appellate court may, in its discretion, order a party to pay for the cost to the other party of maintaining the appeal and attorney's fees in addition to statutory costs." Because she is the prevailing party, we award Kristine reasonable fees on appeal.

We affirm.

A handwritten signature in cursive script, appearing to read "Appelwick J.", written over a horizontal line.

WE CONCUR:

Ajid, J.

Grosse, J